

Overview of proposed changes to shoreland protection rules

Landowners, counties gain flexibility and certainty; lakes and rivers better protected

Public hearings are set for July and August on proposed changes to Wisconsin's statewide minimum shore protection standards along lakes and rivers, primarily in unincorporated areas. A 1997 study found that current standards for lot sizes, building setbacks and limits on cutting plants and trees were inadequate to meet a 1966 law. That law mandates the protection of clean water, good habitat, and natural scenic beauty by controlling development density and maintaining a natural buffer of native plants, trees and shrubs. Counties must adopt the statewide minimums or more protective ones.

DNR in 2002 convened a citizen advisory committee to help revise the standards to address their inadequacies and concerns identified by landowners and the counties, which administer and enforce the standards. The draft now offered for public review reflects the advisory committee's work and extensive public participation. The standards are found in Natural Resources Chapter 115 of the Wisconsin Administrative Code.



Proposed changes to statewide minimum shoreland standards safeguard good fishing, clean water and natural scenic beauty while allowing landowners more flexibility on their properties and counties an easier time enforcing the rules.

Proposal provides more flexibility for landowners while better protecting natural shorelines

The proposed changes to the minimum statewide standards provide more flexibility and certainty for landowners and the counties that administer and enforce the rules, reduce runoff to lakes and rivers, and better protect habitat immediately next to the water. This area, the "primary buffer," extends 35 feet landward and it's the most critical. The native plants, trees and shrubs found in this area provide habitat, flood control, privacy and natural scenic beauty, and they trap polluted runoff from entering lakes and rivers, preserving water quality.

Key provisions under the proposed changes would:

- Keep the same requirements for minimum lot sizes for single family homes: 65 feet wide and 10,000 square feet for seweried lots; 100 feet wide and 20,000 square feet for lots with septic systems. Lot size standards would be established for multi-unit residential development, campgrounds and mobile home parks.
- Keep the same requirement that homes be set back 75 feet from the ordinary high water mark but allow counties to exempt walkways, open faces, and more than a dozen other kinds of structures from this 75-foot set back requirement. (Current rules exempt only piers, boat hoists and boathouses from the 75-foot setback.)
- Require new boathouses to be set back 75 feet from the ordinary high water mark.
- Provide owners of homes not meeting the current setback more flexibility in repairing and replacing the structure in exchange for restoring and maintaining the primary buffer and taking other actions to offset impacts of their activities. Repairs and reconstruction of such "nonconforming structures" would no longer be limited to 50 percent of the current equalized value over the lifetime of the structure. Instead, work allowed would be based on a structure's size and location, as would the mitigation steps people needed to take to offset the impacts of their activities.
- Clarify setbacks for landowners with a wetland or bog between their upland and open water, and potentially allow homes to be closer to open water than currently allowed.
- Establish standards requiring landowners to control runoff from their property if their construction project results in more than 20 percent of the property being covered by hard surfaces, i.e. roofs, paved or gravel driveways, etc. People would need to maintain or establish shoreland vegetation to absorb and filter runoff.
- Keep similar requirements allowing removal of algae, aquatic plants, and other debris washed ashore. Also allowed is removal from the 35-foot primary buffer zone of any exotic or invasive species, damaged, diseased vegetation, with any removed vegetation required to be replaced by comparable native species in the same area.

Proposed changes allow more repair, rebuilding of waterfront homes

Current provisions regarding "nonconforming structures" -- buildings constructed before the current rule and built closer to the water than the rule allows -- have long been the bane of some property owners and county zoning officials as being too confusing and limiting.

Proposed changes to NR 115 would significantly change how these nonconforming structures are treated. Most notably, landowners would gain more leeway in repairing, rebuilding, and even expanding some of these structures in exchange for restoring a natural buffer by the water and taking other mitigating steps.

Now, structural repairs, expansions and improvements to nonconforming structures cannot exceed 50 percent of the current equalized assessed value over the lifetime of the structure. To exceed that cap or expand a building, an owner must move the structure back at least 75 feet from the water, depending on what the county ordinance establishes as the setback distance. The statewide minimum setback is 75 feet; counties can adopt that standard or a more protective one.

Under proposed changes to NR 115, nonconforming structures could have unlimited repairs, and be rebuilt entirely, and in some cases, be expanded, if they complied with standards based on the size of the structure and how close it is to the water and took steps to mitigate the impacts of their construction project.

For example, a home within 35 feet of the water could be torn down and rebuilt in the same size, same place. A home farther from the water could, in some cases, be torn down and expanded.

When owners pursue major projects that require a county building permit or other county permit, they would be required to take actions to mitigate the potential impacts of their project that could include:

- Restoring native vegetation within the 35-foot primary buffer;
- Getting their septic system inspected and upgraded if necessary;
- Developing and implementing an erosion control plan;
- They may also be required to remove accessory structures within the 35 foot primary buffer that don't have an exemption.



Primary buffer of primary importance

Loons, like the one seen nesting above, fish, turtles and frogs are some of Wisconsin's most popular waterfront residents. They also suffer the most when development that's not done in an environmentally-friendly way eliminates the native plants, trees and shrubs on land right next to the water and replaces them with a lawn.

This area, called the primary buffer, extends 35 feet landward and it's critical for clean water, good habitat, and natural scenic beauty. The primary buffer provides nesting and transition areas for waterfowl, songbirds and turtles; downed trees that provide habitat for feeding and spawning fish, and native plants and shrubs that help filter polluted runoff, preserving water quality for all.

Proposed changes to statewide minimum shoreland protection standards seek to maintain the **primary buffer** in a natural state and to restore it when property owners pursue a major change that trips a trigger. With a few exceptions, buildings are not to be located in this area.

For more information...

Learn more about on the proposed changes to Wisconsin's shoreland protection rules, research concerning the importance of these critical habitat areas, and other information, please visit our Web site. Go to www.dnr.wi.gov, then use the drop down topic menu and select "shoreland management."



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